NOTICE OF REMOVAL

EXHIBIT 117

FILED: NEW YORK COUNTY CLERK 02/08/2023 12:41 AM INDEX NO. 650744/2023

NYSCEF DOC. NO. 121

RECEIVED NYSCEF: 02/08/2023

EXHIBIT 116

FILED: NEW YORK COUNTY CLERK 02/08/2023 12:41 AM INDEX NO. 650744/2023

NYSCEF DOC. NO. 121

RECEIVED NYSCEF: 02/08/2023



HIGHLY CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER INFORMATION REDACTED

Transcript of Scott Ellington

Date: July 29, 2021

Case: UBS Securities LLC, et al. -v- Highland Capital Management, L.P.

Planet Depos

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NYSCEF DOC. NO. 121

12.41 AM INDEX NO. 650744/2023

Transcript of Scott Ellington

HIGHLY CONFIDENTIAL - STPO - INFORMATION REPORTUTED NYSCEF: 02/08/2023

1 (1 to 4)

Conducted on July 29, 2021 IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION APPEARANCES ON BEHALF OF PLAINTIFFS UBS SECURITIES LLC AND UBS AG LONDON BRANCH: HIGHLAND CAPITAL MANAGEMENT, L.P., Chapter 11 Case No. 19-34054-SGJ11 Andrew B. Clubok (Via Zoom) Debtor. LATHAM & WATKINS LLP 555 Eleventh Street, N.W., Suite 1000 UBS SECURITIES LLC AND UBS AG LONDON BRANCH, Washington, D.C. 20004 Plaintiffs, (202) 637-2200 Andrew.clubok@lw.com HIGHLAND CAPITAL MANAGEMENT, L.P., Defendant. Shannon E. McLaughlin 12 12 Robert Allen 13 HIGHLY CONFIDENTIAL 13 LATHAM & WATKINS LLP 14 SUBJECT TO PROTECTIVE ORDER 1271 Avenue of the Americas 15 INFORMATION REDACTED 15 New York, NY 18828 16 Videotaped Deposition of 17 SCOTT BYRON ELLINGTON Shannon.mclaughlin@lw.com 17 18 Conducted Virtually 19 Thursday, July 29, 2021 10:39 a.m. EST 28 22 Job No.: 386794 21 Pages: 1 - 407 22 Reported by: Lisa M. Barrett, RPR, CRR, CRC, CSR 23 24 Videotaped virtual deposition of SCOTT BYRON APPEARANCES CONTINUED ON BEHALF OF DEFENDANT HIGHLAND CAPITAL ELLINGTON, pursuant to notice, before Lisa M. Barrett, a Certified Shorthand Reporter, MANAGEMENT, L.P.: Registered Professional Reporter, Certified Robert J. Feinstein (Via Zoom) Realtime Reporter, and a Notary Public in and for Greg Demo the State of Maryland. PACHULSKI STANG ZIEHL & JONES LLP 780 Third Avenue, 34th Floor New York, New York 10017-2024 (212) 561-7700 Rfeinstein@pszjlaw.com 12 12 ON BEHALF OF THE WITNESS: Frances A. Smith 15 15 Eric Soderlund ROSS & SMITH, PC 17 17 700 N. Pearl Street. Suite 1610 Dallas, Texas 75201 (214) 377-7879 19 19 28 28 Frances.smith@judithwross.com 21 21 22 22 23 23 24 24 25

Transcript of Scott Ellington Conducted on July 29, 2021

3 (9 to 12)

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11 PREVIOUSLY MARKED EXHIBITS 1 states Bankruptcy Court for the Northern District of Texas, Dallas Division. Case number NUMBER DESCRIPTION 1934054FGJ11. PAGE Today's date is July 29th, 2021. Exhibit 50 5 The time on my video monitor is Exhibit 26 10:40 a.m., eastern time. Exhibit 77 156 My name is Robert Leonard. I'm the Exhibit 39 Video Specialist. I represent Planet Depos. Exhibit 26 9 This deposition is being taken via Zoom 10 Exhibit 28 10 online. Exhibit 61 255 Will counsel please identify themselves 11 12 Exhibit 47 284 12 verbally and state who they represent. Exhibit 2 MR. CLUBOK: Good morning. This is 14 Exhibit 82 329 14 Andrew Clubok and Shannon McLaughlin from Latham & 15 Watkins LLP on behalf of UBS. Exhibit 55 MR. FEINSTEIN: Good morning. This is 16 17 Exhibit 69 17 Robert Feinstein, Pachulski Stang Ziehl & Jones. Exhibit 78 18 We are counsel for the defendant in the adversary 19 proceeding, Highland Capital Management LP. 20 My colleague Greg Demo is also on the 21 Zoom. 22 23 MS. SMITH: Good morning. Frances 22 23 Smith with Ross and Smith on behalf of the 24 non-party witness, Scott Ellington. MR. CLUBOK: Okay. Can you swear the 10 12 HIGHLY CONFIDENTIAL witness in, please. Videotaped Deposition of Scott Ellington 2 THE VIDEOGRAPHER: The court reporter 3 Conducted Virtually today is Lisa Barrett. She also represents Planet Thursday, July 29, 2021 Depos. --- Commencing at 10:30 a.m. (EST) 5 Will the court reporter please swear in REMOTE TECHNICIAN: Thank you to 6 the witness. everyone for attending this proceeding remotely, 7 (OATH STIPULATION) which we anticipate will run smoothly. 8 SCOTT BYRON ELLINGTON, called as a witness, Please remember to speak slowly and do 9 having been duly sworn was examined 10 your best not to talk over one another. Please be 10 and testified as follows: 11 aware that we are recording the proceeding for EXAMINATION 11 12 backup purposes. Any off-the-record discussion 12 BY MR. CLUBOK: 13 should be had away from the computer. Please Q Okay. Good morning, Mr. Ellington. 14 remember to mute your mic for those conversations. A Good morning, Mr. Clubok. 14 Have your video enabled to help the 15 Q Can you state your full name, please? 16 reporter identify who is speaking. If you are A Scott Byron Ellington. 16 17 unable to connect with the video and are 17 Q What is your home address? 18 connecting via phone, please identify yourself A I currently don't have a home address. 18 19 each time. 19 I recently sold the place I was living. 20 And apologies in advance for any 20 Q Where are you living right now? 21 technical-related interruptions. Thank you. 21 A I'm staying between my father's house THE VIDEOGRAPHER: Here begins video 22 and my girlfriend's house. 23 file number 1 in the video deposition of Scott Q And today, you are taking the 24 Ellington in the matter of UBC (sic) Securities 24 deposition at your girlfriend's house. 25 versus Highland Capital Management in the United A Correct. 25

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9 (33 to 36)

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1 I don't know what Ms. Irving's ability to work 2 looks like in the future. 3 Q And what about Mr. Leventon? 4 A I would highly assume so. 5 Q Highly assume that he would be slated 6 to get equity when you figure out a plan for 7 distributing equity to employees; correct? 8 A I agree. 9 Q When did you get the idea to form 10 Skyview? 11 A Five years ago. 12 Q And did you make efforts to make 10 wouldn't consider it as operating out of NexBank's 2 offices. 3 BY MR. CLUBOK: 4 Q Have any Skyview employees given the 5 NexBank offices as their business address as far 6 as you know? 7 A I have no idea what they've given as a 8 business address. 9 Q When you worked out agreements with 10 your clients, did you ever include a business 11 address for Skyview Group in any of those 12 agreements?	35
2 looks like in the future. 3 Q And what about Mr. Leventon? 4 A I would highly assume so. 5 Q Highly assume that he would be slated 6 to get equity when you figure out a plan for 7 distributing equity to employees; correct? 8 A I agree. 9 Q When did you get the idea to form 10 Skyview? 11 A Five years ago. 12 Q And did you make efforts to make 2 offices. 3 BY MR. CLUBOK: 4 Q Have any Skyview employees given the 5 NexBank offices as their business address as far 6 as you know? 7 A I have no idea what they've given as a 8 business address. 9 Q When you worked out agreements with 10 your clients, did you ever include a business 11 address for Skyview Group in any of those 12 agreements?	
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9 Q When did you get the idea to form 10 Skyview? 11 A Five years ago. 12 Q And did you make efforts to make 9 Q When you worked out agreements with 10 your clients, did you ever include a business 11 address for Skyview Group in any of those 12 agreements?	
10 Skyview? 10 your clients, did you ever include a business 11 A Five years ago. 12 Q And did you make efforts to make 13 your clients, did you ever include a business 14 address for Skyview Group in any of those 15 agreements?	
11 A Five years ago. 11 address for Skyview Group in any of those 12 Q And did you make efforts to make 12 agreements?	
12 Q And did you make efforts to make 12 agreements?	
13 Skyview a reality prior to leaving Highland 13 A I haven't been involved in working out	
14 Capital Management? 14 those agreements.	
15 MS. SMITH: Objection as to form. 15 Q Has Skyview ever represented to any	
16 THE WITNESS: Yes. Yes, several times. 16 clients that its business address was the NexBank	
17 BY MR. CLUBOK: 17 office?	
18 Q And so you'd been planning to form 18 A I	
19 Skyview during the last year of working at 19 MS. SMITH: Objection as to form.	
20 Highland Capital Management, at least; correct? 20 THE WITNESS: Sorry. I don't know.	
21 A Yes, for many years before that. 21 BY MR. CLUBOK:	
22 Q In fact, you incorporated just two days 22 Q If they did so, that would be false;	
23 after you were fired from Highland Capital 23 correct?	
24 Management? 24 MS. SMITH: Objection as to form.	
25 MS. SMITH: Objection as to form. 25 THE WITNESS: That would be false, in	
34	36
1 THE WITNESS: I don't know when the 1 my opinion, yes.	
2 entity was incorporated. 2 BY MR. CLUBOK:	
3 BY MR. CLUBOK: 3 Q So if a Skyview employee was	
4 Q Fair to say it was very shortly after 4 representing that his or her business address was	
5 you were terminated from Highland Capital 5 the NexBank office, that would be a false	
6 Management? 6 statement; correct?	
7 A That would be my assumption, yes. 7 MS. SMITH: Objection as to form.	
8 Q Does Jim Dondero have any sort of 8 THE WITNESS: To me, it would be	
9 economic stake in Skyview, in directly or 9 because I don't consider that where Skyview's	
10 indirectly? 10 offices are since a very small number of	
11 A No. 11 employees, as far as I know, worked there on an ad	
12 Q What is Mr. Dondero's relationship to 12 hoc basis.	
13 Skyview, if any? 13 BY MR. CLUBOK:	
14 MS. SMITH: Objection as to form. 14 Q Do you have any other employment	
15 THE WITNESS: Mr. Dondero's entity is 15 currently? And I apologize if I asked that	
16 related to Helm (inaudible) or some of the 16 already, but	
17 contractual clients. 17 A I do not. You already asked, and I do	
18 BY MR. CLUBOK: 18 not.	
19 Q And Skyview is currently operating out 19 Q Do you have any other source of income,	
20 of NexBank's offices; correct? 20 other than the income you get from Skyview Group?	
21 MS. SMITH: Objection as to form. He's 21 A Well, I have shares in the REITs that	
22 already explained that multiple times. 22 are granted by the independent board members to	•
23 THE WITNESS: Skyview employees on an 23 myself. But I don't know if you would consider	
24 ad hoc basis work in the NexBank offices. 24 that income or not.	
25 I don't know how many, but I certainly 25 Q The REITs that Skyview Group manages?	

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10 (37 to 40)

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37	July 29, 2021	39
1 A Skyview Group does not manage anything.	1 A I believe it's an entity that holds	39
2 Q All right. Are these REITs that are	2 claims that the former Highland employees	
3 clients of Skyview Group?	3 potentially have against the debtor.	
4 A NexPoint Advisors	4 Q Did you assign your claim to CPCM?	
5 MS. SMITH: Objection as to form.	5 A I believe I did.	
6 THE WITNESS: Sorry, Frances, I keep	6 Q For what consideration?	
7 stepping on you, I apologize.	7 A My employment.	
8 NexPoint Advisors is the investment	8 Q Your employment with whom?	
9 manager that manages the REIT on our part.	9 A My employment with Skyview.	
10 BY MR. CLUBOK:	10 Q You own Skyview; correct?	
11 Q And is NexPoint Advisors a part of	11 A Correct.	
12 Skyview Group?	12 Q And you had to assign your claim to	
13 A Yes.	13 CPCM as in order to get a job with a company	
14 Q And you are allocated shares in the	14 you fully owned?	
15 REITs that NexPoint Advisors manages; correct?	15 A No.	
16 A Yes. And by the independent board	16 Q Okay. So was there any consideration	
17 members, as they see fit.	17 at all for the assignment of your claim to CPCM?	
18 Q Do you have any other source of income?	18 MS. SMITH: Objection to form. He's	
19 A No.	19 already answered that.	
20 Q As a rough percentage, what do you	20 (No response)	
21 expect your Skyview Group income to be in terms of	21 BY MR. CLUBOK:	
22 your total income as vis-a-vis the REITs?	22 Q Was there any consideration at all for	
23 MS. SMITH: Objection as to form.	23 the assignment of your claim to CPCM?	
24 Again, none of this is relevant to the topics of	24 A I believe it was my employment with	
25 the deposition.	25 Skyview.	
-	25 Skyview.	40
THE WITNESS: I wouldn't know how to	1 Q But that employment you had the right	40
2 calculate that because they could give me zero or	2 to give yourself, regardless of whether or not you	
3 they could give me ad infinitum shares. But in	3 assigned your claim to CPCM as a hundred percent	
4 looking historically, it would be less than	4 owner of Skyview; correct?	
5 probably I don't know, I'd have to do the math,	5 MS. SMITH: Objection to form.	
6 but about 10 or 15 percent. But, again, it's not	6 THE WITNESS: Theoretically, yes.	
7 necessarily income.	7 BY MR. CLUBOK:	
8 Q Are there any subsidiaries of Skyview 9 Group?	Q Not just theoretically, actually, as far as you know.	
10 A I would I would have to have	10 As far as you understand, owning a	
11 somebody update the org chart. I know that that's	11 company a hundred percent, you certainly had the	
12 been considered, but I don't know what's been		
13 implemented.	12 right to employ yourself in any capacity you 13 chose; correct?	
14 Q Have you ever heard of an entity called	14 A Yeah, I would agree with that.	
15 Skyview Legal PC?	15 Q And is there any other consideration	
16 A I know that something was being	16 at all that you could identify, even a peppercorn,	
17 discussed about a legal PC. I don't know what the		
	17 for the transfer or assignment of your claims to 18 CPCM?	
18 gentlemen working on it decided to name it or if 19 it's been implemented.		
	19 A I don't remember the agreements in	
	20 detail. I'd have to look at the agreements	
21 A I believe JP Seery and Isaac Leventon	21 relating to (inaudible) to see what (inaudible) 22 was considered.	
22 were the people in charge of that.		
Q Do you know what CPCM LLC is?A I do.	23 Q But as you sit here today, you are not	
1/A A 100.	24 aware of any; correct?	
25 Q What is it?	25 A Not that I can recall, but there may be	

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11 (41 to 44)

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41	43
1 some.	1 A I see that written on the document,
Q Well, we're going to put up Exhibit 1.	2 yes.
3 By the way, do you have exhibits in front of you?	3 Q And on page 2, it says, "For value
4 A I have a folder of (inaudible) yes,	4 received, the adequacy and sufficiency of which
5 sir, I do.	5 are hereby acknowledged, Scott Ellington has
6 Q Okay. Take a look at Exhibit 1.	6 unconditionally and irrevocably sold, transferred,
7 A Give me a second to find it.	7 assigned to CPCM," et cetera, et cetera.
8 Q Sorry. It's I said Exhibit 1.	8 Do you see that?
9 It is Tab actually 1, and it is going	9 A Ido.
10 to be Exhibit 86. I apologize.	10 Q And as far as you sit here today, the
11 (Deposition Exhibit 86 was marked for	11 only consideration you can think of is the
12 identification.)	12 employment you gave yourself at Skyview Group;
13 THE WITNESS: Exhibit 86. Okay.	13 correct?
14 BY MR. CLUBOK:	14 A And, again, I'd have to see the
15 Q You may or may not have that one in	15 MS. SMITH: Objection, form.
16 your	16 THE WITNESS: I'd have to see all
17 A I believe that they end at 84.	17 the the related documents. But that's
18 Q Okay. So we'll put up tab or	18 that's what I consider the consideration without
19 Exhibit 86 on the screen.	19 looking at the documents.
20 Exhibit 86 is a Notice of Transfer of	20 BY MR. CLUBOK:
21 Claim Other Than for Security by Scott Ellington	21 Q What documents would you have to look
22 to CPCM.	22 at?
23 A Okay.	23 A I don't know what's out there related
24 MS. SMITH: Andy, since we are not	24 to this. I'm being shown two pages. I wasn't
25 copied on the exhibits, could someone please load	25 involved in negotiation or drafting of these. I
42	44
1 them into the chat?	1 don't know what else is relatable.
2 MR. CLUBOK: Yes. We'll start to make	2 Q Were you involved in any negotiation of
3 them	3 the transfer of claims to CPCM by any any
4 Shannon, maybe you can circulate them	4 individual?
5 at the same time that we put them up on the	5 A No.
6 screen.	6 Q Were you involved at all in the
	7 approval of those transfers?
7 MS. McLAUGHLIN: Certainly. 8 MR CLUBOK: Thank you	••
With Chopolic Transit you.	8 A No.
9 BY MR. CLUBOK:	9 Q Did you have any involvement at all?
10 Q And Mr. Ellington, can you	10 A None.
11 MR. CLUBOK: Let's see.	11 Q You just who told you about it?
12 Nate, we got it up there?	12 A I believe counsel.
13 REMOTE TECHNICIAN: Yes, I will I	13 Q You learned about the transfers through
14 will circulate the document in chat. Or actually,	14 counsel and no other no other source?
15 Shannon has already done	15 MS. SMITH: Objection to form.
16 MR. CLUBOK: Can you put the document	16 THE WITNESS: Yeah. Yes, at the time I
17 on the screen, or maybe it's up there and I just	17 was under a restraining order, so I had very
18 don't see it.	18 limited communication with anyone, but counsel.
19 REMOTE TECHNICIAN: Yes. Thank you,	19 Q Do you know whose idea it was to
20 one moment.	20 transfer the claims to the CPCM?
21 BY MR. CLUBOK:	21 MS. SMITH: Objection.
22 Q So this is the do you recognize	22 THE WITNESS: No, I don't.
23 Exhibit 86 as the Notice of Transfer of Claim	23 MS. SMITH: Do not answer to the extent
24 Other Than for Security with respect to yourself,	24 it calls for privileged information. 25 THE WITNESS: I do not know.
25 as the transferor and CPCM as the transferee?	

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Conducted on July 29, 2021 BY MR. CLUBOK: 1 BY MR. CLUBOK: Q Did you ever discuss it with anyone Q Are you aware of anyone else they other than your counsel? represent? A I believe they represent Mr. Waterhouse 5 Q CPCM is wholly owned by Skyview Group? 5 and potentially Mr. Collins. I believe them or a A I'd have to look at an org chart or subset of them represents Skyview as an entity, related documents. I'm not certain, but that's my but I don't know that for a fact as I haven't seen understanding. those engagement letters with my own eyes. Q So you have all the economic interest Q Who hired them? 10 in CPCM; correct? 10 A Who hired whom? A Again, I'd have to look at how it was Q Who hired Ross and Smith to represent 11 12 structured. 12 you and your colleagues? 13 I don't -- I just know anecdotally what A Well, I personally hired them to 14 represent me. I would assume each individual 14 I was told. 15 hired them on their own behalf. Q As far as you know sitting here today, 16 can you -- are you aware of anyone else who has Q And when you hired them, did you -- you 17 any other economic interest in CPCM other than 17 worked out no payment arrangements with them; you 18 just hired them and didn't have any compensation 18 you? A No, I think it's a wholly-owned sub of 19 worked out? 20 Skyview, but, again, I'd have to look at the 20 MS. SMITH: Objection to form. 21 documents to be certain. 21 THE WITNESS: The payor of the bills, Q CPCM is represented by Ross and Smith 22 as far as I understand, are through various 23 and Baker MacKenzie. 23 indemnities and insurance policies with entities A That's my understanding, yes. 24 and insurers. But, again, that's not -- I'm not 24 Q And these are the attorneys who are 25 the person that processes or pays the bills, so I 25 46 48 1 sitting here today with you during this 1 don't know how they're being paid. 2 deposition? 2 BY MR. CLUBOK: A Yes. Q When you -- when you said you were Q And Mr. Sevilla, Mr. Leventon, going to work with Ms. Smith, did you discuss 5 Mr. DiOrio and Ms. Lucas/Irving also shared that compensation in any way of who would pay for it? MS. SMITH: Objection, privileged. same set of counsel; correct? 6 A That's my understanding, yes. THE WITNESS: Yeah, I think that's Q Who is paying the legal fees for Ross getting into privileged communications. 9 and Smith? BY MR. CLUBOK: 10 A I'm not certain. Q Do you have any idea who is paying MS. SMITH: Objection to form. 11 Ms. Smith's bills to represent you and your 11 12 colleagues? 12 BY MR. CLUBOK: Q You have -- Ross and Smith, Ms. Smith 13 A Currently, no. 14 has been here object -- making these objections. Q Did you ever have any idea as to who 15 She has got a colleague of hers also sitting on 15 was going to be paying Ms. Smith's bills to 16 this deposition, and you have no idea who's paying 16 represent you, your colleagues and the company you 17 100 percent own? 17 their bills? A Yes. 18 A No, I don't. 18 Q Who else do they represent, other than 19 MS. SMITH: Objection to form. 20 you, CPCM, Mr. Sevilla, Mr. Leventon and Mr. 20 BY MR. CLUBOK:

21

22 understanding?

24 entity called Gov Re.

Q And who -- and what was your

A At the inception, I believe it was an

Q So when you first hired Ms. Smith, you

21 DiOrio and Ms. Irving?

25 communications.

A No, I don't.

MS. SMITH: Objection -- objection,

24 calls for speculation and potentially privileged

22

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14 (53 to 56)

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THE WITNESS: It's an assumption,	1 Countrywide?	55
2 Mr. Waterhouse.	2 A It would have been about 2002, I	
3 BY MR. CLUBOK:	3 believe.	
4 Q Did you discuss with any individual	4 Q Okay. Going back to your employment	
5 other than your the lawyers assigning any	5 with HCM, when you first started there, what was	
6 claims to Skyview Group?	6 your job title?	
7 (overspeaking)	7 A In-house counsel.	
8 A Assigning	8 Q And eventually you became the general	
9 Q Excuse me (overspeaking)	9 counsel?	
10 assigning things with CPCM?	10 A Yes.	
11 A No, only discussed with counsel.	11 Q When was that?	
	12 A I'd have to go back and look. I don't 13 recall. But I believe it was around 2010.	
13 Highland Capital Management?		
14 A May of 2007.	14 Q So, after the you remember that UBS	
15 Q How did you start working for Highland	15 filed a lawsuit against Highland in roughly	
16 Capital Management?	16 2000 in early 2009?	
17 A I was in the syndications group, the	17 A Yes.	
18 real estate group of Wells Fargo. Highland bought	18 MS. SMITH: Objection objection.	
19 into those syndicated levels, and they asked me to	19 Before you start this line of questioning, I want	
20 come interview to work in-house with them.	20 to caution you, Mr. Ellington, not to disclose any	
21 Q Prior to Wells Fargo, where did you	21 privileged communications with counsel that you	
22 work?	22 might have gotten in your role as Highland Capital	
23 A Countrywide Home Loans.	23 GC, unless the debtor or I will rely on the	
24 Q Doing what?	24 debtor to assert privilege, if needed.	
25 A In the syndications group, and in the	25 MR. FEINSTEIN: Well, yes. It is Rob	
54		56
1 ultimately in the bankruptcy group.	 Feinstein. So that privilege does belong to the 	
2 Q Doing legal work?	2 debtor and the extent to which we assert the	
3 A Yes.	3 privilege, you will know on a question-by-question	
4 Q Prior to sorry, Countrywide, you	4 basis.	
5 said?	5 If you don't hear an objection from us,	
6 A Yeah, Countrywide Home Loans.	6 it's because we determined either the privilege	
7 Q What did you do prior to working at	7 doesn't apply or one of the recognized exceptions	
8 Countrywide?	8 apply, like the crime fraud exception, or that	
9 A I worked at a talent agency in Los	9 we're waiving it. But in all events, we'll assert	
10 Angeles.	10 the privilege as and if we see fit; otherwise,	
11 Q In what capacity?	11 counsel should feel free to answer the question	
12 A It was an assistant.	12 excuse me, the witness should feel free to answer	
13 Q What year?	13 the questions.	
14 A The year would have been starting in	14 THE WITNESS: Mr. Feinstein, thank you.	
15 2000.	15 BY MR. CLUBOK:	
16 Q So when did you graduate law school?	16 Q Do you understand?	
17 A 2000.	17 A Yes.	
18 Q And your first job was as an assistant	18 Q Do you understand the consent?	
19 at a talent agency.	19 A Yes.	
20 A Yes.	20 Q So you became general counsel after UBS	
21 Q Why did you do that?	21 filed its lawsuit against Highland in New York?	
22 A Because to get into the top talent	22 A Yes.	
23 agencies, you had to have a law degree with an	22 A res. 23 Q And in addition to being general	
24 MBA, and I wanted to work in the film industry.	24 counsel, were you a partner in Highland Capital	
25 Q Okay. And when did you move to	25 Management?	

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15 (57 to 60)

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57		59
1 A Ultimately, yes.	1 A Reported to Mr. Surgent.	
2 Q When was that?	2 When he was the chief compliance	
3 A I don't remember the date.	3 officer?	
4 Q Roughly?	4 A Yeah, they they were in	
5 A I want to say around '13, maybe '12	5 compliance-based roles at the end of my tenure.	
6 2012 or 2013.	6 Q When Mr. Surgent was the chief	
7 Q Okay. And you remained a partner until	7 compliance officer, who did he report to?	
8 the bankruptcy?	8 A Jim Dondero.	
9 A Until my termination, yes.	9 Q Was there anyone else in the Highland	
10 Q Until your termination.	10 Capital Management legal department, other than	
11 And did you remain general counsel	11 the names you've identified?	
12 until your termination?	12 A Sarah Bell, my executive assistant,	
13 A Yes.	13 reported to me. I believe she may have reported	
14 Q Who did you report to at Highland?	14 to Mr. Collins. I believe she reported to	
15 A Jim Dondero.	15 Mr. Collins, technically.	
16 Q Where did you work?	16 Q Anyone else in the Highland Capital	
17 A In the offices at the Crescent.	17 Management legal department?	
18 Q Were you physically near Jim Dondero,	18 A Not that I can recall.	
19 your office?	19 Q Prior to becoming general counsel, were	
20 A No, I was not physically near Dondero.	20 you the assistant general counsel?	
21 Q Same floor?	21 A Iwas.	
22 A Same floor, yes. There was only one	22 Q And did you ever hold a title of	
23 floor.	23 portfolio manager?	
24 Q And you had your own private office?	24 A I did.	
25 A I did.	25 Q When?	
58		60
1 Q And you spoke with Mr. Dondero on an	1 A I'd have to go back and think about	
2 average of a daily basis?3 A Yes.	2 that, Mr. Clubok. I apologize. But it was, I	
	3 want to say, '08 and '09, maybe in '10.	
4 MS. SMITH: Objection as to form. 5 THE WITNESS: I'm sorry, Frances.	4 Q When you communicated with Mr. Dondero, 5 is it fair to say you you communicated	
	5 is it fair to say you you communicated 6 verbally, like in-person?	
6 Yes. 7 BY MR. CLUBOK:		
8 Q Did anyone report to you directly at	7 A I communicated verbally in-person as 8 well as telephonically.	
9 Highland Capital Management?	8 well as telephonically. 9 Q How about by text message?	
10 A Yes.	10 A Very limited.	
11 Q Who?	11 Q When you would text message with	
12 A I'll try my best to give an exhaustive	12 Mr. Dondero, which phone would you use?	
13 least.	13 A 214-649-5475.	
14 Thomas certainly reported to me in his	14 Q Did you use any other messenger systems	
15 deputy general counsel role, but not in his chief	15 to communicates with Mr. Dondero, like	
16 compliance officer role.	16 A No.	
17 JP Sevilla, Ms. Irving, Mr. DiOrio,	17 Q Did you ever use signal or What's App	
18 Ms. Vitiello, Ms. Leventon I mean, Mr.	18 or any other text messaging?	
19 Leventon, sorry. I think that was the direct	19 A No, I exclusively communicated with	
20 reports upon determination, but at different	20 Mr. Dondero on iMessage.	
21 times, it's been various other people.	21 Q IMessage on your iPhone?	
22 Q What about Lauren Thedford?	22 A Yes.	
23 A She did not report to me. She reported	23 Q Did he have an iPhone?	
24 to Mr. Surgent.	24 A Yes.	
25 Q And what about Jason Post?	25 MS. SMITH: Objection, form.	
And what about Jason Post?	25 MS. SMITH: Objection, form.	

Transcript of Scott Ellington

16 (61 to 64)

INDEX NO. 650744/2023

	July 29, 2021	
1 BY MR. CLUBOK:	60	3
	1 Q So I can get it clean for the record.	
	2 And when you say it's like if I said	
	3 it's not raining range outside and you said "No,"	
4 with Mr. Dondero.	4 you're meaning yes, it's not raining, but it says	
5 Q Who set your compensation at HCM?	5 no. So, anyway, I'm just going to ask you that	
6 A I believe there was a compensation	6 again just not to make you repeat, but just so you	
7 committee, but the ultimate arbiter was	7 can answer. Whatever your answer is I don't care.	
8 Mr. Dondero.	8 I just want to	
9 Q Did you have responsibilities for any	9 A Yes, I understand that.	
10 other HCM-affiliated or managed entities while you	10 Q Okay. So is it true that other than	
11 were the general counsel at Highland Capital	11 the NexPoint advisor-managed REITs in which you	
12 Management?	12 were granted shares, there was never a Highland	
13 A I believe that I was a managing member	13 Capital Management affiliate or managed fund that	
14 or officers of various entities at different	14 paid you directly while you were working at HCM;	
15 times.	15 correct?	
16 Q Did any of those entities separately	16 MS. SMITH: Objection to form.	
17 compensate you for the work you did?	17 THE WITNESS: That is my understanding,	
18 A No.	18 yes.	
19 Q So all of the compensation you received	19 BY MR. CLUBOK:	
20 came even if you did it on behalf of some of	20 Q When you were at Highland, you used	
21 these other entities came directly from Highland	21 email addresses that ended in "hcmlp.com" and	
22 Capital Management LP?	22 "highlandcapital.com?"	
23 A Yes.	23 A Yes.	
24 Q Was there ever a time when one of	24 Q Did you ever use any other email to	
25 Highland's affiliated or managed funds paid you	25 conduct any business for Highland or any of its	
62	64	4
1 directly?	1 affiliates?	
A Again, only with	2 MS. SMITH: Objection to form.	
3 MS. SMITH: Objection to form.	3 THE WITNESS: For Highland or its	
4 THE WITNESS: Again, only with the	4 affiliates, no.	
5 exception of the NexPoint Advisor-managed REITs	5 MR. CLUBOK: I'm sorry. What was the	
6 when I was granted shares.	6 form objection to that, Ms. Smith?	
7 BY MR. CLUBOK:	7 MS. SMITH: That was a that was a	
8 Q So other than NexPoint Advisor-managed	8 compound question.	
9 REITs in which you were granted shares, there was	9 MR. CLUBOK: Okay. I'm trying to	
10 never a Highland Capital Management affiliate or	10 one second here. My wife just nicely brought me a	
11 managed fund that paid you directly; is that	11 cup of coffee.	
12 correct?	12 MS. SMITH: I wish I had someone	
13 A That paid me directly, no.	13 bringing me coffee.	
14 Q Is that correct?	14 MR. CLUBOK: It's very nice. You guys	
15 A That's what that's my belief, yes.	15 may regret that I have coffee. I don't know.	
16 Q And by the way, that was an example of,	16 Sorry, let me back to it.	
17 I think, a double negative.	17 BY MR. CLUBOK:	
18 The only reason I reiterated that	18 Q When you conducted business for	
19 question is if I say if you say I said was	19 Highland Capital Management, did you ever use any	
20 there I said was there never.	20 other email, other than the HCMLP.com or the	
21 I put in a negative. And you said	21 HighlandCapital.com?	
	22 A No, not for business related to	
22 "No," and so it became a little confusing. So	· ·	
23 I am just going to ask that question again without	23 Highland Capital Management.	
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Transcript of Scott Ellington

17 (65 to 68)

INDEX NO. 650744/2023

any other business-related purpose? 2 A Yes. 3 Q And what emails — what email or emails 4 were that? 5 A WWSA—or my name, sorry, 6 "sasmgt.com." 7 Q Under what circumstances would you use 8 the sasmanagement.com email? 9 A In things related to SAS or Sentinel or 10 its related entities. 11 Q Why? 12 A Because we were instructed by 13 compliance that all aspects of those businesses 14 should be conducted on their own servers and 15 compliance that all aspects of those businesses 15 compliance that all aspects of those businesses 16 thould be conducted on their own servers and 17 Q Why, other than that email address and 18 the Highland-related email address and 18 the Highland-related email address and 18 the Highland-related email address set that you've 19 already mentioned, was there ever any other email 20 that you used for any business purposes while you 21 were employed at Highland Capital Management? 22 A Not that I recall. 23 Q Did you ever — what is Blackland 24 Associates? 25 A Consulting firm. 66 1 Q When was that — what — does that have 2 any connection with Highland Capital Management? 2 any connection with Highland Capital Management? 3 A None. 4 Q Did you ever — what's your sister's 8 name. 9 A I have two sisters. 9 A I have their annees? 11 A Sharon Ellington and Marcia Maslow. 12 Q Have citier of those individuals ever 13 done any work in connection with Highland Capital Management? 15 A My sister Marcia assisted on some IT 16 projects. 17 Q Anyother work that either of them ever 18 did in connection with your work at Highland 19 Capital Management? 10 A My — my other sister is an estate 11 planning attorney, and she's helping me with my 12 personal finances. 23 Q Anything else? 24 A Not that I — not that I recall.	65	Tury 29, 2021	67
3 Q And what emails — what email or emails 4 were that? 5 A WWSA—or my name, sorry, 6 "sasmgt.com." 7 Q Under what circumstances would you use 8 the sasmanagement.com email? 9 A In things related to SAS or Sentinel or 10 its related entitles. 11 Q Why? 12 A Because we were instructed by 13 compliance that all aspects of those businesses 14 should be conducted on their own servers and 15 completely separate from Highland Capital 16 Management LP. 17 Q Okay, other than that email address and 18 the Highland-related email address and 18 the Highland-related email address set hat you've 19 already mentioned, was there ever any other email 20 that you used for any business purposes while you 21 were employed at Highland Capital Management? 22 A Nothat I recall. 23 Q Did you ever — what is Blackland 24 Associates? 24 A Sound Sample of the second of t		1 A OG Ventures? No.	07
4 A Yes. 5 A WWWSA or my name, sorry, 6 "sasmgt.com." 7 Q Under what circumstances would you use 8 the sasmanagement.com email? 9 A In things related to SAS or Sentinel or 10 its related entities. 11 Q Why? 12 A Because we were instructed by 13 compliance that all aspects of those businesses 14 should be conducted on their own servers and 15 completely separate from Highland Capital 16 Management LP. 17 Q Okay, other than that email address and 18 the Highland-related email address set that you've 19 already mentioned, was there ever any other email 20 that you used for any business purposes while you 21 were employed at Highland Capital Management? 22 A Not that I recall. 23 Q Did you ever - what is Blackland 24 Associates? 25 A Consulting firm. 66 1 Q When was that - what - does that have 2 any connection with Highland Capital Management? 2 any connection with Highland Capital Management? 3 A None. 4 Q Did you ever use emails with the 5 blacklandassociates.com? 6 A No. 7 Q Did you ever use emails with the 5 blacklandassociates.com? 6 A No. 7 Q Did you ever was emails with the 5 blacklandassociates.com? 6 A No. 7 Q Did you ever was emails with the 6 blacklandassociates.com? 6 A No. 7 Q Did you ever was emails with the 7 A None. 8 A I have two sisters. 9 A I have two sisters. 10 Q What are their names? 11 A Sharon Ellington and Marcia Maslow. 12 Q Have either of those individuals ever in prior to that? 13 A You own kin connection with Highland Capital 14 Management? 15 A My sister Marcia assisted on some IT 16 projects. 16 did in connection with Highland Capital 17 A My be a couple of times a week. 18 Q When was the last time you spoke with 19 P Sevilia? 19 A No. 10 Q Have vist last time you spoke with 21 Issanc Leventon? 20 A Note every couple to three days. 21 Q When was the last time you spoke with 22 Issanc Leventon? 23 A A hout of days ago. 24 Q And prior to that, how often did you speak to him for intervention with Highland Capital Management? 25 Pack with Mr. Leventon? 26 Q Have either of those indiv	2 A Yes.	2 Q Were you surprised when you were hired	
5 A WWWSA—or my name, sorry, 6 "sasmgt.com." 7 Q Under what circumstances would you use 8 the sasmanagement.com email? 9 A In things related to SAS or Sentinel or 10 its related entities. 11 Q Why? 12 A Because we were instructed by 13 compliance that all aspects of those businesses 14 should be conducted on their own servers and 15 completely separate from Highland Capital 16 Management LP. 17 Q Okay, other than that email address and 18 the Highland-related email addresses that you've 19 already mentioned, was there ever any other email 20 that you used for any business purposes while you 21 were employed at Highland Capital Management? 22 A Not that I recall. 23 Q Did you ever — what is Blackland 24 Associates? 25 A Consulting firm. 66 1 Q When was that — what — does that have 2 any connection with Highland Capital Management? 3 A None. 4 Q Did you ever use emails with the 5 blacklandassociates, com? 6 A No. 7 Q Did you ever what's your sister's 8 mame. 9 A I have two sisters. 10 Q When was that — what — does that have 2 any connection with Highland Capital Management? 11 A Shano Ellington and Marcia Maslow. 12 Q Have either of those individuals ever 13 done any work in connection with Highland Capital 14 Management? 15 A My sister Marcia assisted on some IT 16 projects. 17 Q Any other work that either of them ever 18 did in connection with your work at Highland 19 Capital Management? 20 A My — my other sister is an estate 21 planning attorney, and she's helping me with my 22 personal finances. 23 Q Anything else? 24 A Not that I — not that I recall.	3 Q And what emails what email or emails	3 from Highland Capital Management?	
6 BYMR. CLUBOK: 7 Q Did you have a chance to clean out your 8 the sasmanagement.com email? 9 A In things related to SAS or Sentinel or 10 its related entities. 11 Q Why? 12 A Because we were instructed by 13 compliance that all aspects of those businesses 14 should be conducted on their own servers and 15 completely separate from Highland Capital 16 Management LP. 17 Q Okay, other than that email address and 18 the Highland-related email addresses that you've 19 already mentioned, was there ever any other email 20 that you used for any businesse purposes while you 12 were employed at Highland Capital Management? 22 A Not that I recall. 23 Q Did you ever - what is Blackland 24 Associates? 25 A Consulting firm. 66 1 Q When was that - what - does that have 2 any connection with Highland Capital Management? 3 A None. 4 Q Did you ever use emails with the 5 blacklandssociates.com? 6 A None. 5 Q When was that - what - does that have 2 any connection with Highland Capital Management? 6 A None. 6 A None. 6 A None. 7 Q Did you ever - what's your sister's 8 name. 9 A I have two sisters. 9 A I have two sisters. 10 Q What are their names? 11 A Sharon Ellington and Marcia Maslow. 12 Q Have either of those individuals ever 13 done any work in connection with Highland Capital 14 Management? 15 A My siter Marcia assisted on some IT 16 projects. 17 Q Any other work at Highland 19 Capital Management? 18 BY MR. CLUBOK: 10 Q When was that it mey our power termination? 11 LCM-related entities since your performed any services for any 11 HCM-related entities since your performed any services for any 11 HCM-related entities since your performed any services for any 11 HCM-related entities since your performed any services for any 11 HCM-related entities since your performed any services for any 11 HCM-related entities since your performed any services for any 11 HCM-related entities. 13 Skytew, but I don't know that it's considered 14 related anymore due to the bankruptey. 15 Q When was the last time you spoke with 16 Jim Dondero? 17	4 were that?	4 A Yes.	
7 Q Under what circumstances would you use 8 the sasmanagement.com email? 9 A In things related to SAS or Sentinel or 10 its related entities. 10 Q Why? 11 Q Why? 12 A Because we were instructed by 13 compliance that all aspects of those businesses 14 should be conducted on their own servers and 15 completely separate from Highland Capital 16 Management LP. 17 Q Okay, other than that email address and 18 the Highland-related email addresses that you've 19 already mentioned, was there ever any other email 20 that you used for any business purposes while you 21 were employed at Highland Capital Management? 22 A Not that I recall. 23 Q Did you ever — what is Blackland 24 Associates? 25 A Consulting firm. 26 2 When was that — what — does that have 2 any connection with Highland Capital Management? 3 A None. 4 Q Did you ever — what is Blackland 5 blacklandassociates.com? 6 A No. 7 Q Did you ever — what is Management? 8 A None. 9 A I have two sisters. 9 A I have two sisters. 10 Q What are their names? 11 A Sharon Ellington and Marcia Maslow. 12 Q Have either of those individuals ever 13 done any work in connection with Highland Capital 14 Management? 15 A My siter Marcia assisted on some IT 16 projects. 17 Q Any other work that either of them ever 18 did in connection with your work at Highland 19 Capital Management? 20 A My — my other sister is an estate 21 planning attorney, and she's helping me with my 22 personal finances. 23 Q Arything else? 24 A Not that I — not that I recall. 25 General A Round 32 days ago. 26 Q Mand prior to that, how often did you speak with 27 Speak with Mr. Leventon? 28 A About 35 days ago. 29 A A Now that er their names? 20 A A Nore. 20 When was the last time you spoke with 21 Providence of times a week. 22 Q When's the last time you spoke with 23 Providence of times a week. 24 Q When was the last time you spoke with 25 Speak with Mr. Leventon? 26 27 A A would a symbout 30 days ago. 29 A Line of the second of the work of the mere 29 A Line of the second of the work of the mere 29 A Line o	5 A WWWSA or my name, sorry,	5 MS. SMITH: Objection as to form.	
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10 Q	8 the sasmanagement.com email?	8 office?	
11 HCM-related entities since your termination? 12 A Because we were instructed by 13 compliance that all aspects of those businesses 14 should be conducted on their own servers and 15 completely separate from Highland Capital 16 Management LP. 17 Q Okay, other than that email address and 18 the Highland-related email addresses that you've 19 already mentioned, was there ever any other email 20 that you used for any business purposes while you 21 were employed at Highland Capital Management? 22 A Not that I recall. 23 Q Did you ever what is Blackland 24 Associates? 25 A Consulting firm. 66 1 Q When was that what does that have 2 any connection with Highland Capital Management? 3 A None. 4 Q Did you ever use emails with the 5 blacklandassociates.com? 6 A No. 7 Q Did you ever what's your sister's 8 name. 9 A I have two sisters. 10 Q What are their names? 11 A Sharon Ellington and Marcia Maslow. 12 Q Have either of those individuals ever 13 done any work in connection with Highland Capital 14 Management? 15 A My sister Marcia assisted on some IT 16 projects. 17 Q Any other work that either of them ever 18 did in connection with your work at Highland 19 Capital Management? 10 A My my other sister is an estate 21 planning attorney, and she's helping me with my 22 personal finances. 23 Q Anything else? 24 A Not that I not that I recall. 25 Compensation at all for 20- for strike that. 26 Compensation at all for 20- for strike that. 27 Compensation at all for 20- for strike that. 28 Compensation at all for 20- for strike that. 29 Compensation at all for 20- for strike that.	9 A In things related to SAS or Sentinel or	9 A No.	
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24 Not that I not that I recall. 24 compensation at all for 2021?	•		
25 O Horn you can board of OC Ventures?		_	
25 Q have you ever heard of OG ventures? 25 A 1 nave no idea.	25 Q Have you ever heard of OG Ventures?	25 A I have no idea.	

FILED: NEW YORK COUNTY CLERK 02/08/2023 12:41 AM

NYSCEF DOC. NO. 121 HIGHLY CONFIDENTIAL - STPO - INFORMATION REPORT PD NYSCEF: 02/08/2023

Transcript of Scott Ellington

21 (81 to 84)

INDEX NO. 650744/2023

Conducted on	
81	83
1 this is way off the track of the purpose of the	1 individuals that you can recall ever discussing
2 deposition.	2 what to do about the judgment that UBS obtained in
3 THE WITNESS: Exactly the same as a	3 New York since Highland's bankruptcy and prior to
4 country club membership or a hunting club or a	4 you being terminated from Highland Capital
5 tennis club or a golf membership, but it is paid	5 Management; correct?
6 to an individual rancher.	6 A I'm sure I hypothecated with I'm
7 BY MR. CLUBOK:	7 certain that I did with Mr. Leventon just about,
8 Q And you did enter into that arrangement	8 you know, what we thought the outcome would be for
9 with Mr. Collins; right?	9 Mr. Sevilla. And I'm sure that I talked to
10 A No, Mr. Reid.	10 Mr. Reid about it several times, you know, because
11 Q I'm sorry, Mr. Reid.	11 I I interact with him socially, so you know how
12 A And yeah, Mr. Reid and a partner of	12 those kind of conversions go.
13 his named Nate Palmer. And, again, they formed	13 Q Anybody else at all?
14 the entity. I just paid my pro rata share to the	14 A Not that I can think of.
15 LLC. They run it, they manage it.	15 Q Did you ever tell me that there was an
16 It is literally a friendship thing	16 insurance policy issued by Sentinel that
17 that's centered around deer hunting.	17 potentially could satisfy that judgment?
18 Q And that firm for a while represented	18 MS. SMITH: Objection to form.
19 Highland Capital Management in the litigation	19 THE WITNESS: No.
20 against UBS; correct?	20 BY MR. CLUBOK:
21 A Correct.	21 Q Did you ever tell Mr. Dondero that
MS. SMITH: Objection to form.	22 there was an insurance policy issued by Sentinel
23 BY MR. CLUBOK:	23 that could potentially satisfy that judgment?
24 Q They did so until they sought to	24 A I didn't need to tell Mr. Dondero. He
25 withdraw earlier this year; correct?	25 was aware of it since inception.
82	84
1 A Correct.	1 Q Did you ever tell Mr. Seery that there
2 Q Did you discuss withdrawal with them?	2 was an insurance policy issued by Sentinel that
3 A I did not.	3 could potentially satisfy at least part of the
4 Q Did you discuss the UBS litigation with	4 judgment that UBS obtained in New York?
5 them during during 2020, the last year of your	5 MS. SMITH: Objection to form.
6 employment with Highland Capital Management?	6 THE WITNESS: No.
7 A Yeah, I'm sure I did at some point.	7 BY MR. CLUBOK:
8 Q Did you ever discuss with them what to	8 MR. CLUBOK: What was the form
9 do about the judgment that UBS obtained?	9 objection?
10 A No.	10 MS. SMITH: Well, it calls for a legal
11 Q Did you discuss with anybody strike	11 conclusion on what the insurance policy can do and
12 that.	12 who it can pay out on.
Post bankruptcy and prior to	13 MR. CLUBOK: Okay.
14 termination, did you discuss with anybody in the	14 BY MR. CLUBOK:
15 world what to do about the judgment that UBS	15 Q Did you ever tell Mr. Seery anything
16 obtained in New York?	16 at all about the insurance policy that was issued
17 A Yes.	17 by Sentinel with respect to the UBS litigation in
18 Q Who did you discuss that with?	18 New York?
19 A Again, what time period? I'm sorry.	19 A No.
20 Q From the time of the bankruptcy until	20 Q Did you ever tell Mr. Nelms, Judge
21 the time you were terminated.	
	21 Nelms anything at all about the insurance policy
22 A You, Mr. Dondero, Mr. Seery, former	22 that was issued by Sentinel with respect to the
23 Judge Nelms, Mr. Dubel. I think that's pretty	23 UBS litigation in New York?
12.4 much it	24 A No
24 much it.25 Q So that's the entire list of	24 A No.25 Q Did you ever tell Mr. Dubel anything

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Transcript of Scott Ellington

22 (85 to 88)

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Conducted on	July 29, 2021
85	87
1 at all about the insurance policy that had been	1 Mr. Leventon because it was my idea.
2 issued by Sentinel with respect to the UBS	2 Q It was your idea to have Sentinel issue
3 litigation in New York?	3 an insurance policy with respect to the UBS
4 A No.	4 litigation that was then pending in New York;
5 Q Did you ever tell Mr. Leventon anything	5 correct?
6 at all about the insurance policy that had been	6 A Yes.
7 issued by Sentinel with respect to the UBS	7 Q And when you initially had that idea,
8 litigation in New York?	8 you discussed it fully with Mr. Leventon?
9 A Mr. Leventon knew about it since	9 A Well, I discussed with Mr. Leventon
10 inception.	10 because the idea came from a matter called
11 Q Mr. Leventon, since inception, knew	11 Cornerstone that Highland Capital Management, its
12 that there was an insurance policy issued by	12 funds brought against Nautic, a private equity
13 Sentinel with respect to the UBS litigation	13 advisor. And I had never heard of an ATE policy
14 pending in New York?	14 before. And we discovered in that litigation that
15 A Yes.	15 they had made a payment out of their funds for a
16 Q How did he know about that?	16 premium. And they had bought an ATE policy, and
17 MS. SMITH: Objection.	17 it produced a large settlement that the debtor and
18 THE WITNESS: He was part of the	18 Highland Capital Management funds benefited from.
19 overall group of a dozen, if not 20, people inside	19 Q And as a result of that, you discussed
20 of Highland that went through the process of	20 with Mr. Leventon the idea of purchasing an ATE
21 approving the transaction, so he was around for	21 policy from Sentinel with respect to the UBS
22 the genesis, then quickly became not part of that	22 litigation that was then pending in New York?
23 process.	23 A Mr. Leventon, Mr. Sevilla, Mr. Surgent
24 BY MR. CLUBOK:	24 were the initial people that I had the
25 Q What do you mean quickly became not	25 conversation with.
25 Q What do you mean quiekly became not	88
1 part of that process?	1 Q All three of those equally in terms of
A It went to a process that was solely	2 being involved?
3 compliance and finance and some individuals from	3 A They were all sitting
4 tax, if I remember correctly, and a couple of guys	4 MS. SMITH: Objection to form.
5 in accounting and training.	5 THE WITNESS: They were all sitting in
6 Q When did it go to that?	6 Mr. Surgent's office when I walked in and said is
7 A After about the second and third week	7 it possible to do an ATE like Nautic did?
8 of discussing it as a possibility.	8 BY MR. CLUBOK:
9 Q And Mr. Leventon never had anything	9 Q And this was the very first time that
10 whatsoever to do with it after that?	10 you ever mentioned this idea to get an ATE policy
11 A Not that I recall.	11 with respect to the UBS litigation to anyone?
12 MS. SMITH: Objection to form.	12 A Yes.
13 THE WITNESS: I mean, there were	13 Q And you mentioned that in Mr. Surgent's
14 there were literally two dozen people involved, if	14 office to a group that included Mr. Leventon,
15 not more, so I don't I didn't really keep a	15 Mr. Sevilla and Mr. Surgent?
16 leash on Mr. Leventon and his involvement, but I	16 A That's my memory, yes.
17 don't remember him being intimately involved.	17 Q How long did you discuss it in the
18 BY MR. CLUBOK:	18 initial meeting?
19 Q Did you ever mention that strike	19 A Less than five minutes.
20 that.	20 Q Okay. And then after that, did you
21 So you are saying Mr. Leventon the	21 ever talk to Mr. Leventon again about the idea?
22 idea first came to have a insurance policy issued	
23 by Sentinel, Mr. Leventon was involved in that	22 A I'm sure I did, yes. Or in a larger 23 group, because then it went through an approval
24 initial conversation; correct?	24 process and that became run by compliance.
25 A I had that initial conversation with	25 Q And was Mr. Leventon aware that the

Transcript of Scott Ellington

23 (89 to 92)

INDEX NO. 650744/2023

3 MS. SMITH: Objection to form. 1 THE WITNESS: As far as I know. 5 BY MR. CLUBOK: 5 Q And was that because you discussed it with Mr. Leventon since that policy has been as issued? 9 A I'm sure that I have. I don't recall to it specifically, but, you know, it's like every to it specifically, but, you know, it's like every to it specifically, but, you know, it's like every to person in the firm knew? 13 A In Highland Capital Management, I'd be also the level because they were involved or their to tertain level know that you are referring to? 14 Q Sorry, what specifically did every goertain level know that you are referring to? 15 certain level know that you are referring to? 16 THE WITNESS: No, I did not. 18 BY MR. CLUBOK: 19 Doiley was being considered. 10 A That the ATE policy was being and it involved almost every group in the total place? 10 A Sorrect. 11 MS. SMITH: Objection to form. 12 Doiley out because the were involved. 12 Process that involved almost every group in the total policy was being considered. 13 If it correct? 14 A I did not. 5 Q You never took any action to make sure of the ATE policy; correct? 11 MS. SMITH: Objection to form. 12 Highland Capital Management above a log about the ATE policy during to the there out — the bankruptcy court was aware of the ATE policy. 14 Q Not prove took any action to make sure of the ATE policy. 15 THE WITNESS: No, I did not. 18 DY MR. CLUBOK: 19 Doiley was being considered. 10 A That's like court — the bankruptcy court was aware of the ATE policy. 11 MS. SMITH: Objection to form. 12 Day on ever took any action to make sure of the ATE policy. 12 Day on the court — the bankruptcy court was aware of the ATE policy. 13 BY MR. CLUBOK: 14 Q Not wore make any effort to collect the the town of the bank the ATE of the wore very group in the the ATE policy during the policy. 15 A Not work and the court — the antity structure of the ATE policy	Conducted on	July 29, 2021	
2. you know? 3. MS. SMITH: Objection to form. 4. THE WITNESS: As far as I know. 5. BY MR. CLUBOK: 5. Q And was that because you discussed it 7. with Mr. Leventon since that policy has been 8. issued? 7. A I'm sure that I have. I don't recall 10 it specifically, but, you know, It's like every 11 person in the firm knew? 12. Q Every person in what firm knew? 13. A In Highland Capital Management, I'd be 14 surprised if anyone didn't know especially above a 15 certain level because they were involved or their 16 team members were involved. 17. Q Sorry, what specifically did every 18 person at Highland Capital Management above a 19 certain level know that you are referring to? 20. A That the ATE policy was being 21 considered because it went through its normal 22 process that involved almost every group in the 23 firm. 24 Q So, every single person who did an ATE 25 policy was being considered. 25 policy was being considered. 29 And roughly when was that? 2 A Several months before it was put in 3 place. 3 Place. 4 Q And how many people knew it was 5 actually put in place? 5 A I would say the entire group that was 6 actually put in place? 6 A I would say the entire group that was 7 part of the process. 8 Q So virtually every single senior person 9 A That with a winderstanding. I'd be 12 shocked if they didn't. Because, again, we're 13 talking two dozen people involved in the process. 14 Q Right, But, as far as you— 15 You have no knowledge that Mr. Secry was 16 ever made aware of this; correct? 17 A I did not. 18 A I did not. 18 I did not. 18 Dy Management above a of this; correct? 19 A I did not. 19 Dy Management above a of this; correct? 20 A Correct. 21 Q Didyou ever make any effort to collect 22 on that policy? 22 on that policy? 23 A I— 24 MS. SMITH: Objection to form. 25 Did not a thighland Capital Management is a fairly out over make any effort to collect 22 on that policy? 26 A I would say the entire group that was 27 Dy out a thighland Capital Management is a fairly out over make any effort to collect 22 on			91
3 MS. SMITH: Objection to form. 1 THE WITNESS: As far as I know. 5 BY MR. CLUBOK: 6 Q And was that because you discussed it 7 with Mr. Leventon since that policy has been 8 issued? 8 issued? 10 it specifically, but, you know, it's like every 11 person in the firm knew. 12 Q Every person in what firm knew? 13 A In Highland Capital Management, I'd be 14 surprised if anyone didn't know especially above a 15 certain level because they were involved or their 16 team members were involved. 13 Portion at Highland Capital Management above a 19 certain level know that you are referring to? 14 Q Sory, what specifically did every 12 operation level know that you are referring to? 15 Operation level know that you are referring to? 16 A That the ATE policy was being 21 considered because it went through its normal 22 process that involved almost every group in the 23 firm. 15 Opicy was being considered. 16 A Normation of the ATE policy was being 20 on that policy in the 24 Q And how many people knew it was 5 actually put in place? 16 A Several months before it was put in 24 Highland Capital Management knew that the ATE 10 policy had been put in place? 16 A I would say the entire group that was 7 part of the process. 17 A Lidon't— 18 MS. SMITH: Objection to form. 19 Double hearts it went through its normal 22 on that policy. 20 on A That the ATE policy was being 20 on the ATE policy was being 20 on that policy. 21 Considered because the were involved or their 16 that you never took any action to make sure 10 about the ATE policy. 22 A Lidd not. 23 A I did not. 24 C Mach was aware of the ATE policy. 25 The WITNESS. No, I did not. 26 Double A That the ATE policy was being 20 did not 20 flow on the work of the Objection to form. 27 Double Was aware of the ATE policy and the ATE policy and the ATE policy cornect? 28 A Several months before it was put in 30 flow on the work of the Victoria of the Witness of the Wit			
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24 employment at Highland Capital Management; 24 THE WITNESS: That's my understanding.		22 forth?	
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25 RV MR CLUBOK:	24 employment at Highland Capital Management;	24 THE WITNESS: That's my understanding.	
25 bit Mic Chabore	25 correct?	25 BY MR. CLUBOK:	

Transcript of Scott Ellington

24 (93 to 96)

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	July 29, 2021
93	95
1 Q And and if I talk about it if I	1 interest in Sentinel if it was established.
2 generally refer to it as Sentinel, will you	2 A No.
3 understand it to be the collective organization,	3 Q When did he did he ever speak to you
4 unless it's necessary to identify a specific sub	4 about the economics of Sentinel?
5 or a specific entity; is that okay?	5 A When you mean the economics, who would
6 A Yeah, yeah, that's fine with me. And	6 ultimately the potential beneficial owners?
7 if I get into any specificity, I may need to see	7 Q Yes.
8 an org chart.	8 A At a much later date after it was
9 Q When was Sentinel formed, roughly?	9 established?
10 A My best recollection is 2012.	10 Q Roughly when?
11 Q What was the purpose of forming	11 A I would say probably six to nine
12 Sentinel, as far as you understood?	12 months, if not a year, after it was established.
13 A To create a reinsurer.	13 I really can't remember.
14 Q For whom?	14 Q And what was the nature of that
15 A It was the instruction of	15 conversation, as best you can remember?
16 Mr. Dondero was to make every attempt to originate	16 A That because me and my team had been
17 and structure a Cayman-based reinsurer.	17 able to pull it off, that I would have some
18 Q So the idea for forming Sentinel, as	18 beneficial ownership.
19 far as you know, was Jim Dondero's.	19 Q Because you were able to pull off
20 A Yes.	20 establishing this full-service reinsurer?
21 Q And is he did he is he the one	21 A Yes.
22 who explained to you the purpose behind forming	22 Q And when you say 'some beneficial
23 Sentinel?	23 ownership"ultimately you obtained about
24 A Yes.	24 30 percent; correct?
25 Q Was there anyone else in that	25 A Again, or entities somehow related to
94	96
1 conversation when he initially told you about it?	1 me.
2 A I don't recall. I think it was just me	2 Q At what point did he tell you that
3 and him.	3 that's the percentage you would get?
4 Q And what what else did he tell you	4 A I don't recall.
5 about the kind of business that he expected	5 Q Well, roughly, how long after it was
6 Sentinel to engage in?	6 formed before
7 A He wanted Sentinel to be a	7 A I don't know. I'm sorry, I didn't let
8 full-serviced reinsurer, not just a captive.	8 you finish your question.
9 Q Why?	9 Q Sure. Was it, you know, within the
10 A Because he had attempted to do that	10 first year that it was formed? Was it five years
11 with Gov Re, and due to regulatory issues, again,	11 later? Just your best estimate.
12 beyond my knowledge, he thought that Cayman was a	12 A Oh, within the first year. That's a
13 better place to domicile a new reinsurer.	13 very long due diligence period from the regulator.
14 Q Was the idea that when you say	14 Q So within the first year of Sentinel
15 when you say a full-service reinsurer, not just a	15 being formed, it was established that you would,
16 captive, what's the distinction that you	16 at least indirectly, if not directly, have a
17 understood him to be making?	17 roughly 30 percent economic interest in Sentinel;
18 A That captive reinsurers serve a limited	18 correct? 19 A Correct.
10 set of counter-parties and ensure a limited set	19 A Correct.
19 set of counter-parties and ensure a limited set	
20 where a full service, it serves any and all	20 Q And Mr. Dondero would retain the other
20 where a full service, it serves any and all 21 potential parties.	20 Q And Mr. Dondero would retain the other 21 roughly 70 percent economic interest, as far as
 20 where a full service, it serves any and all 21 potential parties. 22 Q And did he talk to you about the 	20 Q And Mr. Dondero would retain the other 21 roughly 70 percent economic interest, as far as 22 you understood; correct?
20 where a full service, it serves any and all 21 potential parties. 22 Q And did he talk to you about the 23 economics during this initial conversation?	20 Q And Mr. Dondero would retain the other 21 roughly 70 percent economic interest, as far as 22 you understood; correct? 23 A As far as
20 where a full service, it serves any and all 21 potential parties. 22 Q And did he talk to you about the	20 Q And Mr. Dondero would retain the other 21 roughly 70 percent economic interest, as far as 22 you understood; correct?

Transcript of Scott Ellington

29 (113 to 116)

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113	1 July 29, 2021	115
1 A I believe so, but I'm not certain.	1 you?	113
2 I cant remember, but I believe se may have been.	2 A I did not speak at the meeting.	
3 Q And why was she there?	3 O Who did?	
4 A She was along on the trip to do other	4 A Mostly Cayman counsel. I remember Jan	
5 business with us, and she attended the meeting.	5 discussing the portfolio, and potentially	
6 Q What business was Ms. Irving doing that	6 Mr. DiOrio. I don't recall if he spoke or not.	
7 was unrelated to Sentinel?	7 Q Did anyone give any details about what	
8 A Relative to SAS Management.	8 had happened at the trial?	
9 Q So Ms. Irving was in the Caymans on	9 A No.	
10 that trip only with respect to business on behalf	10 Q Did anyone talk about the merits of the	
11 of SAS?	11 UBS litigation in any way?	
12 A Yes.	12 A No.	
13 Q But you brought her along to this	13 Q At the time now, you previously said	
14 meeting with CIMA that was specifically focused on	14 a number of times that you believed that the	
15 Sentinel?	15 defendants were going to lose that litigation even	
16 A Yes.	16 before the verdict came out; right?	
17 Q Why?	17 A Yes, I did.	
18 A Because she asked if she should come	18 Q And in fact, you believed there was a	
19 and listen, and I said sure.	19 decent chance that the defendants would get hit	
20 Q Why?	20 with substantial portion, if not all, of the	
21 A I guess she had a curiosity. I don't	21 billion dollars that was being sought; correct?	
22 know.	22 A I didn't have an idea as to damages,	
23 Q Did you report to anyone about this	23 but I thought the there was a likelihood that	
24 meeting who was not at the meeting?	24 the defendants would lose.	
25 A No.	25 Q And you thought there was a likelihood	
114		116
 Q So, no one other than you, Mr. Sevilla, 	1 that the damages would be substantial, at least in	
2 Mr. DiOrio, Jan, Sentinel's counsel and Ms. Irving	2 the several hundred million dollar range; correct?	
3 were informed about this meeting to the best of	3 A Again, I had no insight into what	
4 your knowledge?	4 damages or how they would be calculated, but I	
5 A To my knowledge, that's the only people	5 thought the defendants would lose.	
6 that were informed, yes.	6 Q And you said a number of times that it	
7 Q And at this meeting, did you talk about	7 didn't surprise you at all about the size or the	
8 the prospects this is after the trial had	8 magnitude of the damages verdict; correct?	
9 already occurred; right?	9 A Correct.	
10 A I believe so, yeah.	10 Q And you had warned Mr. Dondero, in	
11 Q And so for example, at the trial, the	11 words or substance, that this was likely to occur	
12 court ruled from the bench that in a way that	12 before the verdict came; correct?	
13 disallowed one of the defendant's arguments	13 A Yes.	
14 specifically with respect to offset for hedging.	14 Q Did you ever communicate those beliefs	
Do you remember that?A I do.	15 about the likelihood of a large judgment being	
	16 issued against the defendants to anybody 17 affiliated with Sentinel?	
17 Q What's that? 18 A Yes, I do.	18 A Myself, no.	
19 Q Did you tell CIMA about that		
20 development at trial?	19 Q Did you are you aware of those 20 beliefs about the likelihood of a large judgment	
21 A I did not tell CIMA anything about the	21 being issued against the defendants in the UBS	
22 developments at trial.	22 litigation being communicated to anyone affiliated	
23 Q Did they ask?	23 with Sentinel?	
24 A No, they did not.	24 A Am I personally aware of it? No.	
•	25 Q Were you made did you get any	
	Z5 Q were you made did you get any	

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30 (117 to 120)

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117	119
1 strike that.	1 objection for that question?
2 Did you ever come to believe that	2 MS. SMITH: I'm not going to explain
3 anyone at Sentinel was being advised as to the	3 all of my objections.
4 likelihood of a significant judgment coming out of	4 MR. CLUBOK: All right. Okay. I have
5 the trial?	5 a right to ask, and if you don't have a okay.
6 A Yes.	6 I have a right to correct the form objection. So
Q Describe the nature of that belief and 8 the circumstances.	
,	•
10 that Cayman counsel was following the matter very	10 Are you going to tell me anything more
11 closely and updating the directors in their	11 than just objection to form?
12 capacity.	12 MS. SMITH: Okay. Well, any other 13 human in the world is fake.
13 Q And Cayman counsel being Simone?	
14 A Yes. And I believe there may have been	14 BY MR. CLUBOK:
15 other Cayman counsel that Sentinel directors	15 Q Okay. Mr. Ellington, when I say any
16 retained, but I don't know that.	16 other human in the world, are you confused that I
17 Q Who told you that Cayman counsel was	17 might be talking about animals or something;
18 following it very closely?	18 nonhuman nonhumans?
19 A Simone.	19 A Not confused. But it's certainly very
20 Q And but you never saw her	20 difficult to remember what I said to every human
21 communicate strike that.	21 in the world, well over a period of five years.
You never were copied on any	22 Q Sure. But between August of 2019, when
23 communication she had with the Sentinel directors	23 you met in the Caymans with CIMA and the
24 about the merits of the litigation?	24 discussions you had with Mr. Leventon that you've
25 A Never.	25 described in the fall of 2020, did you discuss the
118	120
1 Q And you don't know anything more than	ATE policy with anybody else at all that you can
2 she assured you that the Sentinel directors were	2 think of, sitting here today?
3 being closely informed?	3 A Not that I recall.
4 A A general statement as we were walking	4 Q Did Mr. Leventon ever seek out your
5 from the car into CIMA.	5 advice as to whether or not to disclose the
6 Q So she told you on the way in words to	6 existence of the policy to the independent
7 the effect that the directors know all about the	7 directors that were appointed to manage Highland's
8 events of the litigation and that prospects?	8 affairs in the bankruptcy?
9 A Yes.	9 A Not that I specifically recall.
10 MS. SMITH: Objection, form.	10 Q Did Mr. Leventon ever seek out your
11 THE WITNESS: Yes.	11 advice as to whether or not to disclose the
12 BY MR. CLUBOK:	12 existence of the ATE policy to the Pachulski firm
13 Q Other than that, were you ever made	13 or any lawyer that was representing Highland in
14 aware in any way of what extent to which the	14 connection with the bankruptcy?
15 directors at Sentinel were being kept apprized of	15 A Not that I recall.
16 the prospects for the New York litigation against	16 Q Do you recall ever discussing with
17 UBS?	17 Mr. Leventon whether or not the ATE policy should
18 A No.	18 be disclosed in connection with the bankruptcy?
19 Q And in between that meeting in August	19 A No, not Mr. Leventon.
20 of '19 and the meeting in the fall with Isaac	20 Q With anyone?
21 Leventon where you described, did you ever discuss	21 A Maybe I didn't understand your
22 the ATE policy with any other human in the world?	22 question. I'm sorry.
23 MS. SMITH: Objection to form.	23 Could you ask could you please ask
24 THE WITNESS: Not that I recall.	24 it again?
25 MR. CLUBOK: And what's the form	25 Q Did you ever recall discussing with

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34 (133 to 136)

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133	•	135
1 THE WITNESS: I generally knew that	1 would also trigger the policy; correct?	133
2 they were they were looking at the assets of	2 MS. SMITH: Objection to form.	
3 those entities, yes.	THE WITNESS: I don't have the	
4 BY MR. CLUBOK:	4 expertise to say whether that triggers a policy or	
5 Q And you knew that the trigger for the	5 not. That's not a determination I could make.	
6 ATE policy had already occurred as of the date of	6 BY MR. CLUBOK:	
7 the judgment?	7 Q Isn't it true that Mr. Leventon at some	
8 MS. SMITH: Objection to form.	8 point consulted with you about whether or not he	
9 BY MR. CLUBOK:	9 should disclose the policy to either Mr. Seery or	
10 Q Correct?	10 the lawyers at the Pachulski firm?	
11 A I disagree.	11 A I don't know.	
12 Q Why do you disagree with that?	12 MS. SMITH: Objection to form.	
13 A It was intimated to me that the trigger	13 BY MR. CLUBOK:	
14 would be a perfection of a judgment from New York	14 Q Sorry, can you answer the I think	
15 to the Cayman Islands.	15 your answer came in over Ms. Smith's objection, so	
16 Q Who intimated that to you?	16 I'll ask the question again.	
17 A CIMA.	17 Is it true that Mr. Leventon at some	
18 MS. SMITH: Objection.	18 point consulted with you about whether or not he	
19 BY MR. CLUBOK:	19 should disclose the ATE policy to either Mr. Seery	
20 Q CIMA did?	20 or the lawyers at the Pachulski firm?	
21 A Yes.	21 A I don't recall.	
22 Q When?	22 Q Between other than this meeting with	
23 A In the meeting aforementioned in August	23 CIMA and the discussion you had with Mr. Leventon,	
24 of '19.	24 did you ever discuss the ATE policy with anyone	
25 Q So it was intimated to you that until	25 else in the world since the bankruptcy that you	
25 Q So it was intimated to you that with		126
	1 can recall other than	136
1 the judgment was perfected in the Cayman Islands, 2 there was no trigger for paying ATE?	2 A Not that I recall.	
3 A Yes.	3 Q other than Ms. Smith?	
4 Q Who specifically intimated that to you?	4 A Not that I recall.	
5 A CIMA.	5 Q Did you ever discuss when was the	
6 Q Who, name of a human being.	6 last time you spoke to Mr. Dondero about the ATE	
7 A I don't know the human being's name.	7 policy?	
8 There was five people from CIMA in the room. It	8 A I would say at least two years.	
9 was three years ago.	9 Q And what was the nature of that	
10 Q When you say it was intimated, what do	10 conversation?	
11 you mean?	11 A I believe that Mr. Dondero asked me if	
12 A They said there is not a claim on the	12 it was still in place.	
13 policy to perfect the judgment here.	13 Q Roughly when was that?	
14 Q Was it a man or a woman who said that?	14 A I would say sometime in 2018.	
15 A It was a man.	15 That's that's my best guess.	
16 Q Was it the man who was the was there	16 Q Was it before or after the trial?	
17 one person who was the principal spokesperson for	17 A Before.	
18 CIMA at this meeting?	18 Q So before the trial, he asked you if	
19 A Yes.	19 the ATE policy was still in place?	
20 Q And you just don't remember his name?	20 A Yes.	
21 A No.		
	21 Q And what did you say? 22 A I said as far as I know, yes.	
22 Q Did you have any documents, records of 23 this meeting?		
	-	
	24 judgment, did you ever speak with Mr. Dondero	
25 Q And now if there is a settlement, that	25 again about the ATE policy?	

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35 (137 to 140)

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Conducted on July 29, 2021

A Not that I recall. A Absolutely. It is my fault, and there Q And after the judgment, did you ever is some slight delay on my end, so I think that's 3 talk to Mr. Dondero about how the ATE policy could part of the problem. I apologize. somehow be used to satisfy the judgment or settle Q That's okay. I appreciate -- again, the case? like I said, I appreciate your effort to just answer these questions clearly, but you overshot A No. MS. SMITH: Objection to form. that by a scooch. THE WITNESS: Not that I recall. A I apologize to both you and Ms. Smith and the court reporter. I'm not trying to do that BY MR. CLUBOK: Q Right before the bankruptcy, you tried 11 to settle the claims against CDO Fund, SOHC and Q No, no, I understand. I understand. 11 12 HFP; correct? 12 13 A Yes, I approached you to try to 13 Q So let me just ask it one more time. 14 structure a settlement. You never disclosed in the course of 14 Q And you claimed at the time that those 15 any settlement discussions with UBS's counsel that 16 funds were ghost funds, in your words; correct? 16 there was an ATE policy that could satisfy a **17** 17 potential settlement of the claims against CDO 18 Fund, SOHC and HFP; correct? 18 Q And you -- basically, you said, in 19 substance, though, they had no assets left, but if A The only person I discussed it with was 20 there was a settlement, that Mr. Dondero could 20 you, and, no, I did not disclose that. 21 come up with funds from some other source to 21 Q I apologize if I've asked this earlier: 22 satisfy a relatively small settlement on behalf of 22 Did Sentinel ever have a shared services agreement 23 those funds; is that true? 23 with Highland Capital Management? A On behalf of all defendants, yes. A Not that I'm aware of. 24 24 Q Well, you specifically talked about --25 25 Q Does it have one today with Skyview? 138 140 1 you specifically talked about settling the A Not that I'm aware of. 1 2 non-HCM-related claims for a relatively small 2 Q Does it have a client relationship with 3 amount and then separately agreeing to an allowed 3 Skyview? 4 claim for HCM; isn't that true? THE WITNESS: Not that I'm --4 A That was one of the options you and I 5 MS. SMITH: Object to the form. 6 discussed. We discussed many options. THE WITNESS: Sorry, not that I'm aware 6 Q And you never disclosed the fact that 7 of. 8 there was an ATE policy that could satisfy a BY MR. CLUBOK: 9 potential settlement of the claims against CDO Q Let's turn to what's behind tab 2, 10 Fund, SOHC and HFP; correct? 10 Exhibit 50. I think we do have here -- we've asked 11 A Correct. 12 you before about the ownership interest, and you 12 -- (overspeaking) --MS. SMITH: Objection, form. 13 said you had seen some documents. Hopefully this 14 BY MR. CLUBOK: 14 will help refresh your recollection. Q I want to make sure the court reporter A You want me to go ahead and open the 16 got the -- okay. There was simultaneous speakers, 16 envelope, Mr. Clubok? 17 so I don't think she heard your answer even though Q Yeah, open Exhibit 50. Exhibit 50 --18 the audio will capture it. 18 while you're opening it, I'll just describe -- is 19 an email exchange that starts with an email from And do me a favor, Mr. Ellington. 20 Mr. Sevilla to SEI-IS-Highland and that appears to 20 Since Ms. Smith is objecting sometimes, if you 21 could -- I really appreciate you giving answers 21 be to someone named Daniel Bowen, and there is 22 quickly on the one hand. On the other hand, if 22 some back and forth that continues through the 23 you could just take one more beat so that you are 23 email chain between these two individuals. 24 not talking over her as she's making her Do you have Exhibit 50 in front of you? 24 25 objections, that will be helpful. 25 A I do.

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Transcript of Scott Ellington

39 (153 to 156)

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153	T	155
1 believe. Let me see.	1 MS. SMITH: Objection to form.	133
2 Q You should.	2 Answered.	
3 A Ithink I do. Sorry. Yes, I have it.	3 THE WITNESS: I can't say whether it is	
4 May I open it now?	4 or isn't without the documents.	
5 Q Yeah, if you could open it, please.	5 BY MR. CLUBOK:	
6 And while you're opening it, I will represent that	6 Q My question is my simple question is	
7 Exhibit 26 was attached to Exhibit 50 in the	7 whether you can say it isn't.	
8 original email.	8 Do you as you sit here today,	
9 And Exhibit 26 shows at the top, 'The	9 looking at this, do you do you know any reason	
10 fund, Multi Strat Credit Fund, with an investor	10 why this would be inaccurate?	
11 Sentinel Reinsurance."	11 A Without the documents, I cannot say	
Do you see that?	12 it's inaccurate.	
13 A Investor Sentinel Reinsurance Limited,	13 Q What further documents would you need	
14 yes.	14 to know whether or not this is accurate?	
15 Q And it talks about the beneficial	15 A Well, I would have to see the documents	
16 owners of Sentinel Reinsurance being 70 percent	16 of all these entities.	
17 Patton Limited and 30 percent Minutes Limited;	17 Q Okay. Did you ever contribute capital	
18 correct?	18 to Sentinel?	
19 A Yes.	19 A Excuse me?	
20 Q And, in turn, under Patton, it has the	20 Q Did you ever contribute any capital to	
21 breakdown of various beneficial ownerships. But	21 Sentinel?	
22 the only individual identified is James Dondero.	22 A Did I ever contribute any capital to	
Do you see that?	23 Sentinel? No, I do not believe so.	
24 A I do.	24 Q Did you ever unless and when I	
25 Q And then with respect to the Mimic	25 say Sentinel, I mean Sentinel Reinsurance Limited.	
154		156
1 Holdings it says, 100 beneficial ownership,	1 Did you ever put any investment or	
2 Montage Holding Limited which, in turn,	2 funds into Sentinel Reinsurance Limited?	
3 100 percent beneficial ownership AHL Holdings LP,	3 A I don't know.	
4 which, in turn, has 99 percent beneficial	4 Q You don't know?	
5 ownership, Elderflower Limited, which, in turn, is	5 A I don't know. It could have been	
6 100 percent beneficial ownership, Scott Ellington,	6 capitalized in a way that I I personally did	
7 you. Correct?	7 not, no.	
8 A I see that, yes.	8 Q Let's look at what's been marked as	
9 Q And does that seeing this, does that	9 Exhibit 77.	
10 confirm that at the time of the ATE policy, you	MR. CLUBOK: And Nate, when I call	
11 had close to or approximately 30 percent	11 these out, I know Mr. Ellington's got a hard copy,	
12 beneficial ownership ultimately in Sentinel?	12 but can you also put it up on the screen to make	
MS. SMITH: Objection to form.	13 it easy. We'll see it both ways.	
14 THE WITNESS: That's what this document	14 REMOTE TECHNICIAN: Yes, sir. That was	
15 seems to suggest. But I don't know where this	15 77?	
16 information came from to SEI. I don't know. 17 BY MR. CLUBOK:	16 MR. CLUBOK: Yes, tab four. 17 BY MR. CLUBOK:	
	a to reconstruct the control of the	
18 Q Do you have any reason to believe that 19 it's inaccurate?	18 Q This is a document that says, "Scott	
20 A I'd have to see the org chart at the	19 Ellington Schedule of Certain Cash and Investments 20 and Accountant's Compilation Report, October 31st,	
21 time that this was generated. I just don't	21 2018." Do you see that?	
22 remember.	22 A I do.	
23 Q Do you as you sit here today, do you	23 BY MR. CLUBOK:	
24 have any reason to believe that this would be	24 Q And the second page references an	
25 inaccurate information?	25 entity called Seville Dodge and Company; do you	
25 maccarate miormanon;	25 cherry carroa be write bouge and company, do you	

Transcript of Scott Ellington

40 (157 to 160)

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Conducted on	July 29, 2021
157 1 see that?	1 other professionals did the valuation.
	2 Q Well, you caused this to be prepared so 3 that you could submit it to CIMA to get a banking
4 A An accounting firm.	4 license; right?
5 Q And they're your accounting firm.	5 A At the request of CIMA, yes.
6 A They assist along with outside counsel	6 Q Understood. And did you are you
7 in tax preparation.	7 reasonably certain that it was accurate?
8 Q Okay. And in the end of 2018, they	8 MS. SMITH: Objection to form.
9 compiled a schedule of certain cash and	9 THE WITNESS: I I don't have
10 investments of you as of October 31st, 2018;	10 enough I don't have enough expertise to
11 correct?	11 understand these type of valuations. That's why I
12 A That seems to be what 7359 is.	12 hire professionals to do it.
13 Q Why did they do that?	13 BY MR. CLUBOK:
14 A I was applying for a Cayman banking	14 Q Yeah, but do you did you take care
15 license, and this was requested by CIMA.	15 to ensure that you hired a professional that you
16 Q Okay. And so you had to make sure you	16 can rely on and that you provided that
17 provided accurate information to CIMA?	17 professional with all the information reasonably
18 A Yes.	18 necessary to be accurate to the best of your
19 Q And did Sevilla do you trust that	19 ability?
20 Sevilla accurately reported your cash and	20 A Myself or other those are other
21 investments as of October 31st, 2018?	21 entities because I couldn't provide information on
22 A I trust that they	22 Sentinel. The independent directors would have to
23 MS. SMITH: Object to form.	23 do that.
24 THE WITNESS: did their best to	24 Q Did you take any affirmative obligation
25 accurately report, yes.	25 to do everything reasonably possible to ensure
158 1 BY MR. CLUBOK:	1 that the information that's set forth in Exhibit
2 Q And on the second page it says,	2 77 is as accurate as possible?
3 "Investment in Sentinel Reinsurance Limited	3 A Yes, I provided any information I had
4 11.8 million."	4 access to and requested that other entities that
5 Do you see that?	5 were controlled by directors or others would
6 A Yes, I do. And Sentinel Reinsurance	6 provide the information to Sevilla Dodge.
7 Limited, yes.	7 Q And to the best of your do you feel
8 Q Right. And does that refresh your	8 comfortable relying upon the work of Sevilla Dodge
9 recollection that you invested 11.8 million in	9 and Company as of the date of Exhibit 77 as
10 Sentinel Reinsurance Limited?	10 reflected here?
11 A No, it does not. I don't I don't	11 A They are a reputable accounting firm
12 know what that's referencing.	12 with highly trained professionals, so I relied on
13 I never invested personally \$11 million	13 their expertise.
14 in anything?	14 Q And why would Matt DiOrio have a copy
15 Q Was that was that a valuation of	15 of this?
16 your investment in Sentinel Reinsurance at the	16 A I don't know.
17 time?	17 MS. SMITH: Objection to form.
18 A That's what my belief is, yes.	18 BY MR. CLUBOK:
19 Q And what was where did you did	19 Q Did you share this information
20 you ensure that Sevilla Dodge and Company had	20 intentionally with Matt DiOrio?
21 accurate information so they could make an	21 A Not that I recall, no.
22 accurate representation of the value of your	22 Q Does as far as you know is Matt
23 investment in Sentinel Reinsurance at the time?	23 when Matt DiOrio was at Highland, did he have any
24 A Yes. But, I mean, I didn't provide any	24 need, as far as you know, to have access to this
25 valuation to them. They I presume them or	25 document based on what you understood his job to
	J

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Transcript of Scott Ellington Conducted on July 29, 2021

102 (405 to 408)

	405	
1 too and then the final in ten days.		
2 MR. CLUBOK: Thank you so much. Thank		
3 you Nate, and Lisa and Robert Leonard for sticking		
4 around this late.		
5 REMOTE TECHNICIAN: I just wanted to		
6 confirm as far as the exhibits go, do you just		
7 want the new exhibits, 86 through 92, attached to		
8 this transcript?		
9 MR. CLUBOK: That's a great question.		
10 (Deposition concluded at 8:20 p.m. EST)		
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